

REMARKS

Claims 24, 26 to 28, 30 to 37, 39, 40, 47 and 48 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 24, 26 to 28, 30 to 37, 39, 40, 47 and 48 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Claims 24, 26 to 28, 30 to 37, 39, 40, 47 and 48 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 24, 26 and 36 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,772,447 to Manson et al. (hereinafter "Manson"). Claims 28, 30, 31, 34, 35, 37, 39 and 40 were rejected under 35 U.S.C. §102(b) as being anticipated by Manson. Claims 27, 32, 33, 47 and 48 were rejected under 35 U.S.C. §103(a) as being unpatentable over Manson, as applied to claims 24, 26, 28, 34 to 37, 39 and 40 above, and further in view of U.S. Patent No. 5,180,545 to Grattier (hereinafter "Grattier").

Claims 24, 28 to 31, 35 to 41, 43 to 45 are hereby amended. Claim 34 is canceled.

Reconsideration of the application based on claim amendments and the following remarks is respectfully requested.

Interview Summary

Applicant's representative Danielle Sullivan (Reg. 64, 125) contacted Examiner Palabrica on September 16, 2009 to request an interview. Applicants' mentioned they were willing to file an RCE if the claims needed to be amended. On September 17, 2009, Examiner Palabrica requested our initially scheduled interview be rescheduled due to unexpected scheduling conflicts.

Applicants' representatives William Gehris (Reg. No. 38,156) and Danielle Sullivan (Reg. 64,125) and Examiner Palabrica conducted a telephonic interview on September 21, 2009, and Applicant's representatives thank Examiner Palabrica for his careful analysis and comments. The language of claim 24 was discussed regarding the sides of the end piece. Applicant's representatives proposed the use of "topside and bottomside" or "the inner side being perpendicular to the longitudinal axis." The Examiner noted that the changes would more clearly distinguish the sides of the end piece, but no final agreement was reached.

35 U.S.C. §112 Rejections

Claims 24, 26 to 28, 30 to 37, 39, 40, 47 and 48 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

The Office Action asserts new matter has been added. "The new matter pertains to noses 'that converge [sic] to be narrower than the diameter of the fuel rods in a direction that is orientated towards the outer side of the end piece.'" Claims 24 and 36 have been amended to more particularly and clearly define the claimed invention. New matter has not been added as these limitations can be seen on Figures 5 and 6, filed with the original application. These figures clearly disclose noses 39 converging to be narrower than the fuel rods 3.

On these figures, the noses 39 converge in a downward direction that is orientated from the top side facing the fuel rods 3 towards opposite bottom side of end piece 7.

Therefore no new matter has been added. Furthermore, "[t]he Examiner has the initial burden of presenting evidence or reasoning to explain why persons skilled in the art would not recognize in the original disclosure a description of the invention defined by the claims." MPEP 2163 II(3)(b). The Examiner has failed to do so in the Office Action.

Withdrawal of the rejection of claims 24, 26 to 28, 30 to 37, 39, 40, 47 and 48 under 35 U.S.C. §112, first paragraph written description requirement is respectfully requested

Claims 24, 26 to 28, 30 to 37, 39, 40, 47 and 48 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement.

The Office Action asserts on page 4 that "[t]here is neither an adequate description nor enabling disclosure of noses that 'converge [sic] to be narrower than the diameter of the fuel rods in a direction that is orientated towards the outer side of the end piece.'" Claims 24 and 36 have been amended to more particularly and clearly define the claimed invention. Figures 5 and 6, filed with the original application, clearly disclose noses 39 converging to be narrower than the fuel rods 3 towards the outer side of end piece 7. "In order to make a rejection, the examiner has the initial burden to establish a reasonable basis to question the enablement provided for the claimed invention." MPEP 2164.04. The Examiner has failed to do so in the Office Action.

Withdrawal of the rejection of claims 24, 26 to 28, 30 to 37, 39, 40, 47 and 48 under 35 U.S.C. §112, first paragraph enablement requirement is respectfully requested.

Claims 24, 26 to 28, 30 to 37, 39, 40, 47 and 48 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office Action asserts on page 5 that “[t]he claims are vague, indefinite and incomplete, and their metes and bounds cannot be determined because the claims are inconsistent with the specification in regard to the direction of convergence of the noses.” Claims 24 and 36 have been amended to more clearly and particularly define the invention. The direction of convergence of the noses is in a direction from the top side of the lower end piece towards the bottom side of the lower end piece. This is now clearly defined in the claim limitations and consistent with the specification and figures (for example, page 3, lines 10 to 11; for example noses 39 in Figure 5 and 6).

Withdrawal of the rejection of claims 24, 26 to 28, 30 to 37, 39, 40, 47 and 48 under 35 U.S.C. §112, second paragraph is respectfully requested.

35 U.S.C. §102 Rejections

Claims 24, 26 and 36 were rejected under 35 U.S.C. §102(b) as being anticipated by Manson.

Manson discloses a device for the spacing and holding in place of fuel rods in a fuel assembly. “[T]he device has a spacing structure defining a grid superimposed on the bundle of rods, cylindrical sleeves with rings connected by elastic strips curve towards the inside of each sleeve and means for fixing the sleeves to said structure.” (Col. 1, lines 56 to 60).

Claims 24 and 36 are hereby amended to recite in part “wherein the noses project from the bottom side of the end piece and converge to be narrower than the diameter of the fuel rods in a direction that is orientated from the top side towards the bottom side of the lower end piece.”

Manson fails to teach or disclose "wherein the noses project from the bottom side of the end piece and converge to be narrower than the diameter of the fuel rods in a direction that is orientated from the top side towards the bottom side of the lower end piece," as required by claims 24 and 36. Sleeve 90 of Manson does not project from the bottom of the end piece. Rather, sleeve 90 is screwed into the top side of the end plate 10. Since Manson does not disclose each and every limitation of claims 24 and 36, and the claims dependent thereon, these claims are not anticipated by Manson.

Withdrawal of the rejections of claims 24, 26 and 36 under 35 U.S.C. §102 as being anticipated by Manson is respectfully requested.

Claims 28, 30, 31, 34, 35, 37, 39 and 40 were rejected under 35 U.S.C. §102(b) as being anticipated by Manson. In view of the above, withdrawal of the rejection of claims 28, 30, 31, 34, 35, 37, 39 and 40 under 35 U.S.C. §102(b) is respectfully requested.

35 U.S.C. §103(a) Rejections

Claims 27, 32, 33, 47 and 48 were rejected under 35 U.S.C. §103(a) as being unpatentable over Manson, as applied to claims 24, 26, 28, 34 to 37, 39 and 40 above, and further in view of Grattier. In view of the above, withdrawal of the rejection of claims 27, 32, 33, 47 and 48 under 35 U.S.C. §103(a) is respectfully requested.


CONCLUSION

It is respectfully submitted that the application is in condition for allowance and applicants respectfully request such action.

If any additional fees are deemed to be due at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

Respectfully submitted,

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